

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kaitlin Campbell	Team: Squad #13	CCRB Case #: 201707608	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 09/13/2017 6:00 AM	Location of Incident: § 87(2)(b)	Precinct: 75	18 Mo. SOL 3/13/2019	EO SOL 3/13/2019	
Date/Time CV Reported Fri, 09/15/2017 10:51 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 09/15/2017 10:51 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			Unknown
2. POM Leonard Clarke	27183	940013	084 PCT
3. POM John Uske	02554	939622	084 PCT
4. SDS David Cheesewright	01990	913752	INT CIS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DTS Patrick Barry	00249	917283	E S U
2. POM Thomas Murray	14413	946047	084 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM John Uske	Abuse: Police Officer John Uske entered and searched § 87(2)(b) in Brooklyn.	
B.POM John Uske	Abuse: Police Officer John Uske damaged § 87(2)(b)'s property.	
C. An officer	Force: An officer used physical force against § 87(2)(b)	
D. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	
E.SDS David Cheesewright	Abuse: Sergeant David Cheesewright failed to show the search warrant to § 87(2)(b) and § 87(2)(b)	
F.POM John Uske	Abuse: Police Officer John Uske refused to show the arrest warrant to § 87(2)(b) and § 87(2)(b)	
G.POM Leonard Clarke	Abuse: Police Officer Leonard Clarke failed to show the search warrant to § 87(2)(b) and § 87(2)(b)	
H.SDS David Cheesewright	Abuse: Sergeant David Cheesewright threatened to arrest § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
I.SDS David Cheesewright	Abuse: Sergeant David Cheesewright threatened to notify Administration for Children's Services.	
J.POM Leonard Clarke	Abuse: Police Officer Leonard Clarke threatened to arrest § 87(2)(b)	
K.POM Leonard Clarke	Abuse: Police Officer Leonard Clarke threatened to notify Administration for Children's Services.	
L.POM John Uske	Abuse: Police Officer John Uske issued an improper summons to § 87(2)(b)	
M.SDS David Cheesewright	Discourtesy: Sergeant David Cheesewright spoke discourteously to § 87(2)(b) and § 87(2)(b)	
§ 87(4-b), § 87(2)(g)	§ 87(4-b), § 87(2)(g)	

Case Summary

On September 15, 2017, § 87(2)(b) called the CCRB and filed this complaint.

On September 13, 2017, at approximately 6:00 a.m., a ten-person NYPD Emergency Services Unit (ESU) and officers from the Patrol Borough Brooklyn North Field Intelligence Operations Unit (PBBN FIO) executed a no-knock search warrant for marijuana and firearms at § 87(2)(b) in Brooklyn (**Allegation A: Abuse of Authority, § 87(2)(g)**). The warrant was requested by PBBN FIO Police Officer John Uske and did not require officers to knock before entering. § 87(2)(b) is a private house owned by § 87(2)(b) in which her sister § 87(2)(b) lives in a separate apartment in the basement. During the entry and search, ESU officers, led by PO Uske, broke the lock off an iron front door, broke the lock off a second wooden front door, cracked the glass of that wooden door, chipped the wood on § 87(2)(b)'s closet door, and broke the center railing to § 87(2)(b)'s bed frame (**Allegation B: Abuse of Authority, § 87(2)(g)**).

ESU officers handcuffed § 87(2)(b) and § 87(2)(b) and Brooklyn PBBN FIO officers gathered § 87(2)(b) and § 87(2)(b) into the living room while Sergeant David Cheesewright supervised the search of the house. § 87(2)(b) sat at the kitchen table.

While § 87(2)(b) was lying chest-down on the floor, an officer pressed his foot into § 87(2)(b)'s handcuffs, picked § 87(2)(b) up by the handcuffs, dangled him by his weight for a couple of seconds, and set him back down (**Allegation C: Force, § 87(2)(g)**). An officer told § 87(2)(b) to “mind [her] fucking business” (**Allegation D: Discourtesy, § 87(2)(g)**).

§ 87(2)(b) and § 87(2)(b) asked officers to show a copy of the search warrant and Sgt. Cheesewright, PO Uske, and PO Clarke did not show them copies of the search warrant (**Allegations E, F, and G: Abuse of Authority, § 87(2)(g)**). Sgt. Cheesewright and PO Clarke both threatened to arrest § 87(2)(b) and place her infant son in the care of the NYC Administration for Children's Services (ACS) (**Allegations H, I, J, and K: Abuse of Authority, § 87(2)(g)**). PO Uske issued § 87(2)(b) an improper summons for possession of pepper spray (**Allegation L: Abuse of Authority, substantiated**). Sgt. Cheesewright told § 87(2)(b) and § 87(2)(b) that § 87(2)(b) and § 87(2)(b) should have left them where they were found, referring to the fact they were adopted (**Allegation M: Discourtesy, § 87(2)(g)**).

§ 87(4-b), § 87(2)(g)

No arrests were made.

No video footage of this incident was obtained.

A CCRB attorney was consulted for Allegations H, I, J, K, and L.

Allegation (A) Abuse of Authority: Police Officer John Uske entered and searched § 87(2)(b) in Brooklyn.

It is undisputed that PO Uske entered and searched § 87(2)(b) in Brooklyn, and that Judge § 87(2)(b) issued to him Kings County search warrant #§ 87(2)(b) on § 87(2)(b) to do so (Board Review 01). It is undisputed that § 87(2)(b) lives in a private apartment in the basement with its own entrance. PO Uske, to whom the search warrant was issued, said he knew in advance there was a door to the basement but did not know it led to a

separate private apartment and Sgt. David Cheesewright, who supervised the search, said tenant searches of the apartment did not include records of § 87(2)(b)'s separate apartment. § 87(2)(g)

Allegation (B) Abuse of Authority: Police Officer John Uske damaged § 87(2)(b)'s property.

It is undisputed officers broke the front door, broke the lock off a second wooden front door, and cracked the glass of that wooden door (Board Review 02).

§ 87(2)(b) and § 87(2)(b) said the wood paneling beside the doorknob on § 87(2)(b)'s closet door was chipped off (Board Review 03). § 87(2)(b) and § 87(2)(b) said officers had broken the center railings to § 87(2)(b)'s iron bedframe so that her mattress sunk in the middle (Board Review 04). § 87(2)(b) said in his phone statement that the doorknob to the closet door was missing before the officers arrived but said in person that the officers broke it off. § 87(2)(b) and § 87(2)(b) said that officers broke the center railings of § 87(2)(b)'s iron bed frame.

None of the officers remembered chipping the wood around the doorknob of a closet door or needing to break down any door inside the house.

All of the officers denied purposefully taking apart § 87(2)(b)'s bed railings. PO Uske and PO Clarke said there would have been no reason for them to do so but that it was possible the railings came apart accidentally when PBBN FIO officers lifted her box spring and mattress.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Force: An officer used physical force against § 87(2)(b)

Allegation (D) Discourtesy: An officer spoke discourteously to § 87(2)(b)

§ 87(2)(b) said that he began to yell to his family members after he had been handcuffed. A white male ESU officer wearing a helmet walked over to him, told him to shut up, and pressed his foot on top of § 87(2)(b)'s handcuffs, which pressed into his back, for one to two minutes. The officer then picked § 87(2)(b) up by the handcuffs and dangled his upper body up and down about a foot from the ground while his legs remained limp, causing pain to § 87(2)(b)'s wrists.

§ 87(2)(b) said a blue-eyed white male ESU officer wearing a helmet handcuffed him and brought him down to the living room from where § 87(2)(b) saw § 87(2)(b) through the open door to § 87(2)(b)'s bedroom. § 87(2)(b) was lying chest-down on the floor, handcuffed and yelling. The officer holding § 87(2)(b) let him go, walked over to § 87(2)(b) stepped on § 87(2)(b)'s handcuffs for about a second and picked

§ 87(2)(b) up by the handcuffs. Another officer moved § 87(2)(b) out of sight of § 87(2)(b) and § 87(2)(b) heard § 87(2)(b) screaming “Alright” repeatedly for about twenty-five seconds.

§ 87(2)(b) said that when he was brought into the living room he sat on a couch sharing a wall with § 87(2)(b)'s room, and sat closest to § 87(2)(b)'s bedroom door. § 87(2)(b) saw over his shoulder § 87(2)(b) lying on his stomach on his bedroom floor. A stocky black male officer wearing plainclothes stood on top of § 87(2)(b)'s handcuffs while pulling the handcuffs upward away from § 87(2)(b)'s back so that he hung suspended by his shoulders. § 87(2)(b) faced forward and did not see anything else but heard § 87(2)(b) yelling about his hands hurting.

§ 87(2)(b) said that when she came downstairs to the living room she sat on a couch directly facing the door to § 87(2)(b)'s room and saw a white or Puerto Rican “bulky” male officer with blue eyes wearing plainclothes pick § 87(2)(b) up by the handcuffs and pull his wrists away from his back. § 87(2)(b) did not see this officer put his foot in § 87(2)(b)'s back. § 87(2)(b) yelled for the officer to stop for about five to eight seconds and § 87(2)(b) yelled asking the officer “what the fuck [he was doing]” and the officer told her to shut up and “mind [her] fucking business.”

All of the officers interviewed denied stepping on § 87(2)(b)'s back and picking him up and dangling him by the handcuffs and no officer said they saw another officer do this.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (E) Abuse of Authority: Sergeant David Cheesewright failed to show the search warrant to § 87(2)(b) and § 87(2)(b)

Allegation (F) Abuse of Authority: Police Officer John Uske failed to show the search warrant to § 87(2)(b) and § 87(2)(b)

Allegation (G) Abuse of Authority: Police Officer Leonard Clarke failed to show the search warrant to § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) said he asked officers to show him a copy of the search warrant and no officer showed him a copy of the search warrant. § 87(2)(b) said she asked every officer who walked through the living room to show her a copy of the search warrant and all of the officers ignored her. She saw one of the officers show a piece of paper to § 87(2)(b) asked why he was showing § 87(2)(b) the warrant and not her, and said the officer told her the paper was not a warrant. § 87(2)(b) said an officer showed him a piece of paper that had his photo and pedigree information on it while he was handcuffed lying on the floor in his room. § 87(2)(b) said he asked the officers why they were in the house multiple times and said that officers told him they had a “judge’s order” but did not show him any such paperwork.

Sgt. Cheesewright said he had a copy of the search warrant with him and showed a copy of the search warrant to § 87(2)(b) in the kitchen upon her request but he did not remember whether he showed a copy of the search warrant to any other civilian in the house. Sgt. Cheesewright did not believe anyone else asked him or any other officer to show a copy of the search warrant.

PO Uske said he showed a search warrant to everyone in the house who asked to see it but only specifically remembered showing it to § 87(2)(b). PO Uske said that every officer there had a copy of the search warrant but he did not know who among them showed his copy to any civilians. PO Uske said he saw § 87(2)(b) reading a copy of the search warrant in her kitchen.

PO Clarke said he left his copy of the search warrant in the car and did not have it on him when he entered the house. PO Clarke said everyone in the living room screamed, at some point, that they wanted to see the search warrant and initially said Sgt. Cheesewright showed a copy of the search warrant to those who asked but later said he did not see Sgt. Cheesewright do so because PO Clarke was upstairs. PO Clarke said he did not remember who showed a copy of the search warrant to any of the civilians but said he “knew” that someone must have, because the PBBN FIO team “always” shows copies of their search warrants.

Patrol Guide procedure 221-17 states that the member of service executing a search warrant should show a copy of the search warrant upon request, when he is able to do so safely (Board Review 05). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation (H) Abuse of Authority: Sergeant David Cheesewright threatened to arrest

§ 87(2)(b)

Allegation (I) Abuse of Authority: Sergeant David Cheesewright threatened to notify Administration for Children's Services.

Allegation (J) Abuse of Authority: Police Officer Leonard Clarke threatened to arrest

§ 87(2)(b)

Allegation (K) Abuse of Authority: Police Officer Leonard Clarke threatened to notify Administration for Children's Services.

§ 87(2)(b) said that when she was sitting holding her infant son in the living room with § 87(2)(b) and § 87(2)(b) she continually yelled at the officers while they searched the house, questioning why they were there and what gave them the authority to be there. Sgt. Cheesewright and PO Clarke both told § 87(2)(b) that if she did not “shut the fuck up” they would arrest her for having a can of mace, and that they would report her to ACS because this can of mace created a hazardous environment for her § 87(2)(b)-old son. As the officers were leaving, PO Clarke handed § 87(2)(b) a summons for having mace. PO Clarke told § 87(2)(b) that he was being nice and he could have arrested her and given her son to the ACS.

§ 87(2)(b) said PO Clarke told § 87(2)(b) he did not like how she was speaking, he did not like “[her] mouth,” and he could “lock [her] up for having mace” and “have [her] baby taken away by ACS.” § 87(2)(b) said PO Clarke threatened to arrest § 87(2)(b) and take her to jail but did not remember whether the officer said why or that he said anything to § 87(2)(b) about ACS. § 87(2)(b) said she could see from the kitchen, through a corner of § 87(2)(b)'s room, where § 87(2)(b) sat in the living room. At one point, § 87(2)(b) heard § 87(2)(b) tell the officers she had mace in a pocketbook in her room. § 87(2)(b) was ultimately summonsed for NYC Administrative Code 10-131(e) which applies to possession of tear gas.

PO Clarke denied threatening to arrest § 87(2)(b) or notify ACS about her son. PO Uske and Sgt. Cheesewright both said they heard PBBN FIO officers explain to every civilian that if the officers found contraband that some or all of them would be taken into custody and that ACS would be notified since there was an infant in the house. Sgt. Cheesewright said it is the policy of the PBBN FIO team to notify ACS if they recover contraband in a location where minors live. PO Uske said he explained to § 87(2)(b) that the officers were there to execute a search warrant for contraband and if they found contraband she would be taken into custody and that ACS would be notified because there was an infant in the house. PO Uske said that no one on the Brooklyn FIO notified ACS.

Patrol Guide procedure 208-01 states that an officer can arrest someone if probable cause exists that the person committed a crime (Board Review 07). NYC Administrative Code 10-131(e) states that it is unlawful to possess tear gas (Board Review 13). Patrol Guide procedure 215-03 states that an officer can report suspected child maltreatment to ACS. Child maltreatment is defined as a situation in which the guardian to a child under eighteen years of age places the child in imminent danger of becoming impaired (Board Review 09).

§ 87(2)(g)

Allegation (L) Abuse of Authority: Police Officer John Uske Police Officer John Uske issued an improper summons to § 87(2)(b)

A copy of the summons shows that PO Uske wrote § 87(2)(b) a summons for what he described was pepper spray. However, on the summons PO Uske cited § 87(2)(b) for NYC Administrative Code 10-131(e), which applies to possession of tear gas. A copy of the property voucher confirms that PO Uske vouchered pepper spray, not tear gas (Board Review 10)(Board Review 12).

§ 87(2)(b) is § 87(2)(b) old and has not been convicted of a felony (Board Review 06)(Board Review 15).

PO Uske said he issued § 87(2)(b) the summons for possession of pepper spray after one of the Brooklyn FIO officers found it in her purse, and PO Uske said possessing such spray violated NYC Administrative Code 10-131(e).

NYC Administrative Code 10-131(e) states that it is unlawful to possess tear gas and the same code at 10-131(f) states that it is a violation and not an arrestable offense (Board Review 13). New York State Penal Law Exemption of Weapons Law Section §265.20(14) states that a person may possess pepper spray if that person is over 18 years old and has not previously been convicted of a felony (Board Review 14).

§ 87(2)(g)

Allegation (M) Discourtesy: Sergeant David Cheesewright spoke discourteously to § 87(2)(b)

§ 87(2)(b) and § 87(2)(b)

§ 87(2)(b) said Sgt. Cheesewright asked § 87(2)(b) if § 87(2)(b) and § 87(2)(b) were his grandparents. § 87(2)(b) told Sgt. Cheesewright that § 87(2)(b) and § 87(2)(b) were adopted and Sgt. Cheesewright told § 87(2)(b) and § 87(2)(b) that § 87(2)(b) and § 87(2)(b) should have left them where they were found.

§ 87(2)(b) said that while she sat in the living room she overheard a conversation between Sgt. Cheesewright and § 87(2)(b) in the kitchen in which § 87(2)(b) said § 87(2)(b) and § 87(2)(b) were “not bad kids.” Sgt. Cheesewright told § 87(2)(b) and § 87(2)(b) that they should have left § 87(2)(b) and § 87(2)(b) in foster care.

§ 87(2)(b) said an officer said something to § 87(2)(b) and § 87(2)(b) along the lines of it was a terrible thing that § 87(2)(b) and § 87(2)(b) had adopted them and they did not belong there.

All of the officers denied making discourteous comments to the § 87(2)(b) § 87(2)(b) or § 87(2)(b) about the § 87(2)(b) status as adopted children but PO Uske did remember having a conversation with the § 87(2)(b) § 87(2)(b) and § 87(2)(b) about the § 87(2)(b) being adopted.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint for § 87(2)(b) and § 87(2)(b)
- § 87(2)(b)
- In his 26-year tenure with the NYPD, Sgt. Cheesewright has been the subject officer in 27 prior CCRB complaints and has been charged with 62 allegations of misconduct, 16 of which were substantiated. § 87(4-b), § 87(2)(g)
 - In case #200202002, force, vehicle search, and threat of force allegations were substantiated and Sgt. Cheesewright was found not guilty at trial.
 - § 87(4-b), § 87(2)(g)

- In case #200202912, stop, frisk, vehicle stop, and refusal-to-provide-name-and/or-shield allegations were substantiated and Sgt. Cheesewright received instructions. § 87(4-b), § 87(2)(g)
- In case #200205206, frisk, vehicle stop, vehicle search, and retaliatory summons allegations were substantiated and the charges were dismissed.
- In case #200600042, gun drawn, entry, and property damage allegations were substantiated and no disciplinary action was taken. § 87(4-b), § 87(2)(g)
- § 87(4-b), § 87(2)(g)
- In case #2015034345, an allegation that Sgt. Cheesewright failed to show a search warrant was unsubstantiated.
- In his 12-year tenure with the NYPD, PO Clarke has been the subject of 12 CCRB complaints and has had 36 allegations of misconduct made against him, four of which were substantiated. § 87(4-b), § 87(2)(g)
 - In case #200717254, force, vehicle stop, and vehicle search allegations were substantiated, PO Clarke was found guilty at trial, and was issued a command discipline. § 87(4-b), § 87(2)(g)
 - In case #200808476, a vehicle stop allegation was substantiated. Charges were recommended but no disciplinary action was taken because the statute of limitations had passed.
 - § 87(4-b), § 87(2)(g)
 - In cases #201705878, #201113726, #200707739, #200616410, threat of arrest allegations were made against PO Clarke.
 - In case #201705878, which is still open, a threat to notify ACS allegation was made against PO Clarke.
- In his 13-year tenure with the NYPD, PO Uske has been the subject of ten CCRB complaints. None of the eight allegations against him have been substantiated.
 - In case #201604066, an entry and search allegation was exonerated.

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation § 87(2)(g)
- According to the NYC Comptroller's officer, no records exist of a notice of claim filed by any of the named civilians about this incident.
- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b) and § 87(2)(b) each do not have any prior convictions.

Squad: 13

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date